

**25.402**

**48 CFR Ch. 1 (10-1-05 Edition)**

The service (Federal Service Codes from the Federal Procurement Data System Product/Service Code Manual are indicated in parentheses for some services.)		WTO GPA	NAFTA and Chile FTA	Singapore FTA	Australia and Morocco FTA
(6)	Transportation services (including launching services, but not including travel agent services—V503).	X	X	X	X
(7)	Utility services .....	X	X	X	X
(8)	Maintenance, repair, modification, rebuilding and installation of equipment related to ships (J019).	.....	X	.....	X
(9)	Nonnuclear ship repair (J998) .....	.....	X	.....	X

\*NOTE 1. Acquisitions of the services listed at (2)(iii) of this table are a subset of the excluded services at (2)(i) and (ii), and are therefore not covered under the WTO GPA.

\*\*NOTE 2. Acquisitions of the services listed at (4)(ii) of this table are a subset of the excluded services at (4)(i), and are therefore not covered under the WTO GPA.

[69 FR 1054, Jan. 7, 2004, as amended at 69 FR 77874, Dec. 28, 2004; 70 FR 18958, Apr. 11, 2005]

**25.402 General.**

(a)(1) The Trade Agreements Act (19 U.S.C. 2501, *et seq.*) provides the authority for the President to waive the Buy American Act and other discriminatory provisions for eligible products from countries that have signed an international trade agreement with the United States, or that meet certain other criteria, such as being a least developed country. The President has delegated this waiver authority to the U.S. Trade Representative. In acquisitions covered by the WTO GPA, Free Trade Agreements, or the Israeli Trade Act, the USTR has waived the Buy

American Act and other discriminatory provisions for eligible products. Offers of eligible products receive equal consideration with domestic offers.

(2) The contracting officer shall determine the origin of services by the country in which the firm providing the services is established. See Subpart 25.5 for evaluation procedures for supply contracts covered by trade agreements.

(b) The value of the acquisition is a determining factor in the applicability of trade agreements. Most of these dollar thresholds are subject to revision by the U.S. Trade Representative approximately every 2 years. The various thresholds are summarized as follows:

Trade agreement	Supply contract (equal to or exceeding)	Service contract (equal to or exceeding)	Construction contract (equal to or exceeding)
WTO GPA .....	\$175,000	\$175,000	\$6,725,000
FTAs:			
NAFTA:			
—Canada .....	25,000	58,550	7,611,532
—Mexico .....	58,550	58,550	7,611,532
Chile FTA .....	58,550	58,550	6,725,000
Singapore FTA .....	58,550	58,550	6,725,000
Australia FTA .....	58,550	58,550	6,725,000
Morocco FTA .....	175,000	175,000	6,725,000
Israeli Trade Act .....	50,000	.....	.....

[69 FR 77874, Dec. 28, 2004]

**25.403 World Trade Organization Government Procurement Agreement and Free Trade Agreements.**

(a) Eligible products from WTO GPA and FTA countries are entitled to the nondiscriminatory treatment specified in 25.402(a)(1). The WTO GPA and FTAs specify procurement procedures designed to ensure fairness (see 25.408).

(b) *Thresholds.* (1) To determine whether the acquisition of products by lease, rental, or lease-purchase contract (including lease-to-ownership, or lease-with-option-to purchase) is covered by the WTO GPA or an FTA, calculate the estimated acquisition value as follows:

(i) If a fixed-term contract of 12 months or less is contemplated, use the total estimated value of the acquisition.